

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 25192 of 2004

Between:

Anil Singh @ Anil S/o Brijlal
r/o H. No. 13-1-519/5 Gandhi Hanuman, Mangalhat, Hyderabad

..... PETITIONER

AND

1. Government of Andhra Pradesh rep by Secretary,
Home Department, Secretariat, Hyderabad
- 2 The Assistant Commissioner of Police, Goshamahahal, Hyderabad
- 3 The Station House Officer, Mangalhat Police Station, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order dt.15-01-2004 in C. No. 1015/OW/ACP-GM/03-04 passed by the 2nd respondent as illegal, arbitrary and violative of police standing order 742 and Article 21 of the Constitution of India and consequently directing the Respondents to close the Rowdy Sheet opened against the petitioner in Managhat Police Station and pass such other necessary order or orders

Counsel for the Petitioner:Mr. A. PRABHAKAR RAO

Counsel for the Respondents: GP FOR HOME

The Court made the following:

ORDER:

The petitioner questions as regards to the opening of the Rowdy Sheet against him pending before the Assistant Commissioner of Police, Goshamahal, Hyderabad, vide order dated 15.1.2004, on the ground that two cases are pending against him and the petitioner is one of the conspirator for the murder of a police constable which is the subject matter of Crime No.426 of 2003 of C.C.S, Hyderabad, for the offences under Sections 302, 395, 201 r/w 120-B of the Indian Penal Code. Except the said case in Crime No.426 of 2003, no other cases are pending against the petitioner.

2. The other case in Crime No.68 of 2002, registered under Section 8(b) of A.P. Prohibition Act, was ended in acquittal in C.C.No.909 of 2003 by the Judgment dated 18.6.2004, on the file of III-Metropolitan Magistrate, Hyderabad. Even in the counter also it is stated that the Crime No.65 of 2004 of P.S. Manghalhat, under Section 8(b) of the A.P. Prohibition Act, is the case pending against the petitioner, but not the Cr.No.68 of 2002, which is no way connected with that police station.

3. Under the Police Standing Order-742, Rowdy Sheets can be opened against

the person who habitually commit, attempt to commit or abet the commission of offences involving a breach of peace. No doubt, a single case is pending against the petitioner relating to the offence involving breach of peace but on the pendency of one single case, it cannot be said that the petitioner is a habitual offender to commit such offences. Unless, more than one case is pending, it cannot be said that a person is a habitual offender or habitually attempted to commit such offences. Therefore, merely because pending such a single case against the petitioner, it cannot be said that the petitioner is a person who habitually commit, attempt to commit or abet the commission of offences involving a breach of peace. In view of the above facts and circumstances, I am of the opinion that the Police Standing Order 742(1)(a) does not satisfy the requirements to continue the Rowdy Sheet against the petitioner.

4. Accordingly, I am of the opinion that the Rowdy Sheet opened against the petitioner cannot be continued and respondents are directed to close down the Rowdy Sheet opened against him. However, if the petitioner involves in more than one case, it is always open for the respondents to open the Rowdy Sheet against him.

5. The Writ Petition is accordingly allowed. No order as to costs.

V.ESWARAIAH, J

17th March 2005.

BCS

That Rule Nisi has been made absolute as above. Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the seventeenth day of March, Two thousand and five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Government of Andhra Pradesh, Home Department, Secretariat, Hyderabad,
2. The Assistant Commissioner of Police, Goshamahahal, Hyderabad,
3. The Station House Officer, Mangalhat Police Station, Hyderabad,
4. Two C.Cs. to the G.P. for Home, A.P. High Court Buildings, Hyderabad.

(OUT).

5. 2 CD copies.